

HOUSE No. 4270

By Representative Cabral of New Bedford and Senator Menard, joint petition of Antonio F. D. Cabral and others for legislation to regulate the investment of public pension funds in certain companies doing business in the countries of Iran and South Africa. Public Service.

The Commonwealth of Massachusetts

PETITION OF:

Antonio F. D. Cabral	Jeffrey Sanchez
Joan M. Menard	James B. Eldridge
Richard R. Tisei	Rosemary Sandlin
Bradley H. Jones, Jr.	Charles A. Murphy
Stephen R. Canessa	Karyn E. Polito
William N. Brownsberger	John W. Scibak
Barry R. Finegold	John D. Keenan
Louis L. Kafka	Viriato Manuel deMacedo
Patricia A. Haddad	Mark V. Falzone
Cleon H. Turner	Paul Kujawski
Elizabeth A. Poirier	Tom Sannicandro
Timothy J. Toomey, Jr.	Richard J. Ross
Susan Williams Gifford	Anthony J. Verga
Michael E. Festa	Michael J. Moran
John J. Binienda	Steven M. Walsh
Cory Atkins	Douglas W. Petersen
Lewis G. Evangelidis	Scott P. Brown
Mary S. Rogeness	Michael R. Knapik
Michael F. Rush	Mark C. Montigny
Pam Richardson	Edward M. Augustus, Jr.
Marie P. St. Fleur	Brian A. Joyce
James J. O'Day	Marc R. Pacheco
David Paul Linsky	Susan C. Tucker
Peter V. Kocot	Dianne Wilkerson
Demetrius J. Atsalis	Thomas M. McGee
Peter J. Koutoujian	Gloria L. Fox
Martin J. Walsh	Bruce E. Tarr
Daniel K. Webster	Joyce A. Spiliotis
Angelo M. Scaccia	Bradford Hill
Kevin G. Honan	

In the Year Two Thousand and Seven.

AN ACT TO PROTECT THE MASSACHUSETTS PENSION FUND FROM THE RISKS OF INVESTMENT IN IRAN.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Paragraph (h) of subsection 2A of Section 23 of
2 Chapter 32 of the General Laws, as amended by Chapter 119 of the
3 Acts of 1997, is hereby further amended by deleting the
4 following:—

5 that no investment of funds shall be made in any bank or financial
6 institution which directly or indirectly or through any subsidiary has
7 outstanding loans to any individual corporation engaged in the man-
8 ufacture, distribution or sale of firearms, munitions, including rubber
9 or plastic bullets, tear gas, armored vehicles, or military aircraft for
10 use of development in any activity in South Africa, and no new
11 investment of funds shall be made in the stocks, securities or other
12 obligations of any company so engaged; provided, further, that if the
13 board elects to invest in banks, financial institutions or any compa-
14 nies doing business in South Africa, excluding the aforementioned,
15 the board shall review the platform of guiding principles defined in
16 subdivision (5) and monies shall be invested as much as reasonably
17 possible in such banks, financial institutions or companies which
18 have adopted said platform of guiding principles so long as such use
19 is consistent with sound investment policy; and provided, further,
20 that no funds are to be invested in any bank or financial institution
21 which directly or through any subsidiary has outstanding loans to
22 any individual corporation engaged in the manufacture, distribution
23 or sale of firearms, munitions, including rubber or plastic bullets,
24 tear gas, armored vehicles, or military aircraft for use or deployment
25 in any activity in Northern Ireland, and no assets shall be invested in
26 the stocks, securities or other obligations of any such company so
27 engaged.

1 SECTION 2. Paragraph (h) of subsection 2A of Section 23 of
2 Chapter 32 of the General Laws, as amended by Chapter 119 of the
3 Acts of 1997, is hereby further amended by inserting in line 363
4 after the word “further” the following:—

5 that no funds shall be directly invested, which for the purposes of
6 this paragraph shall mean invested in holdings directly managed by
7 the PRIM board or administered by a contracted manager in sepa-
8 rately managed accounts, in the securities of prohibited companies,
9 which for the purposes of this paragraph shall include any company,
10 corporation, partnership, limited liability company or other business
11 entity, including any wholly or majority owned subsidiary or parent

12 company, that provides goods or services deployed to develop petro-
13 leum resources in Iran, including but not limited to acquiring, devel-
14 oping, maintaining, owning, selling, possessing, leasing or operating
15 equipment, facilities, personnel, products, services, personal prop-
16 erty, real property or other apparatus of business or commerce,
17 except for the mere holding or renewal of rights to property not
18 presently deployed to develop petroleum and natural gas resources
19 in Iran, and has, with actual knowledge, on or after August 5, 1996,
20 made an investment in Iran of twenty million dollars or more or any
21 combination of investments of at least ten million dollars each which
22 in the aggregate equals or exceeds twenty million dollars in any
23 twelve month period which directly or significantly contributes to
24 the enhancement of Iran's ability to develop its petroleum and nat-
25 ural gas resources. Every ninety days, the PRIM board shall make its
26 best efforts to identify all such prohibited companies in which the
27 PRIT fund has direct or indirect ownership or in which the PRIT
28 fund could have such holdings in the future and shall provide a copy
29 of this list of companies to the clerk of the house and to the clerk of
30 the senate. The identification of such prohibited companies shall be
31 the responsibility of an independent, third-party research firm, as
32 identified by the PRIM board. Within thirty days after the first such
33 list is compiled, the PRIM board may send written notice to any
34 such prohibited company whose securities are directly invested by
35 the PRIT fund, with a copy to the clerk of the house and to the clerk
36 of the senate, containing a copy of this act and stating the PRIM
37 board's intention to sell that company's securities in compliance
38 herewith unless the company replies within ninety days by written
39 notice of the company's intention to cease to own or operate such
40 investments within one year and to make no further investments
41 described herein. During such one year period, this paragraph's pro-
42 hibition on ownership shall not apply to the securities of companies
43 that provide timely notice of such intentions. This paragraph's prohi-
44 bition on ownership shall not apply to investments held in an
45 actively managed investment fund, which for the purposes of this
46 paragraph shall mean an account or fund, such as a mutual fund,
47 managed by one or more persons not employed by the PRIM board
48 in which the PRIT fund owns shares or interests together with other
49 investors, except that, within 120 days of the effective date hereof
50 and quarterly thereafter, the PRIM board shall submit letters to the

51 managers of any such actively managed investment funds which
52 own the securities of prohibited companies requesting that the fund
53 consider removing the securities of prohibited companies from the
54 fund or create a similar actively managed investment fund devoid of
55 securities of prohibited companies. If the manager creates a similar
56 fund devoid of such securities, the PRIM board shall determine
57 within six months of such a fund's creation, whether to replace all
58 applicable investments in said actively managed investment fund
59 with investments in the newly created fund in a timely manner and
60 consistent with prudent investing standards. A company the United
61 States government affirmatively declares to be excluded from its
62 present or any future federal sanctions regime relating to Iran is not
63 subject to this paragraph's divestment requirements or ownership
64 prohibition. The provisions of this paragraph shall expire if and
65 when: the President of the United States affirmatively and unam-
66 biguously states, by means including, but not limited to, enacted leg-
67 islation, executive order or written certification from the President to
68 Congress, that the government of Iran has ceased to acquire weapons
69 of mass destruction and support international terrorism; the United
70 States revokes all sanctions imposed against the government of Iran;
71 or the Congress or President of the United States affirmatively and
72 unambiguously declares, by means including, but not limited to,
73 enacted legislation, executive order or written certification from the
74 President to Congress, that mandatory divestment of the type pro-
75 vided for in this paragraph interferes with the conduct of United
76 States foreign policy.

1 SECTION 3. The PRIM board may vote to spread the sale of
2 securities, ownership of which is prohibited by this act, over no
3 more than twelve months from the effective date hereof and shall
4 file with the clerk of the house and clerk of the senate a report listing
5 any such securities sold pursuant hereto.